

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO No.3033 of 2018

Reserved on : 09.01.2023

Date of Decision: 13.01.2023

Harmeet Singh

....Appellant

VERSUS

Baljit Singh and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ravinder Arora, Advocate with
Mr. Neeraj Khanna, Advocate for the appellant.

Ms. Shreya Rana, Advocate for respondent no.1.

None for respondent no.2.

Mr. Arun Sharma, Advocate for respondent no.3.

ALKA SARIN, J.

The present appeal has been preferred by the claimant-appellant for enhancement of compensation granted by the Motor Accident Claims Tribunal, SAS Nagar (Mohali) vide award dated 08.05.2017 on account of injuries received by him. Since the facts in the present case are not in dispute, the same are not being reproduced for the sake of brevity.

Learned counsel for the claimant-appellant would contend that the claimant-appellant in the present case was a Welder and hence his income ought to have been taken as that of a skilled worker. It is further the contention that the claimant-appellant had undergone amputation of his right leg below the knee and his disability was assessed as 75%. It is the contention of learned counsel for the appellant that functional disability of the claimant-appellant has wrongly been assessed as 75% and that his right leg having been amputated the functional disability ought to have been taken

as 100%. Learned counsel for the claimant-appellant would further contend that the amounts awarded under various heads are also on the lower side. He has further contended that no amount has been awarded towards future treatment, which would involve getting prosthetics for the right leg. He has relied upon a judgment of the Delhi High Court in the case of **Reliance General Insurance Co. Ltd. vs. Rohit Kumar & Ors. [2017 (7) AD (Delhi) 602]** to buttress his argument that some amount should have been awarded towards costs of the artificial limb. He has further contended that no amount towards future prospects has been granted in the present case and that as per judgment of the Hon'ble Supreme Court in the case of **Erudhaya Priya vs. State Express Transport Corporation Ltd. [2020 (3) RCR (Civil) 374]** amount towards future prospects ought to have been granted.

Per contra learned counsel for respondent no.3-Insurance Company assisted by learned counsel for respondent no.1 has contended that as per evidence on the record, 75% was the disability qua the limb and, hence, functional disability cannot be treated as 100%. He would further contend that the amount awarded by the Tribunal is already on the higher side. It has further been contended that there is no evidence on the record that the claimant-appellant was a Welder and hence he could not be treated as a skilled worker.

I have heard learned counsel for the parties.

In the present case, there is no evidence on the record except for the bald statement of the claimant-appellant himself that he was working as a Welder. In the absence of any evidence, income of the claimant-appellant has rightly been assessed as Rs.8000/- per month treating him to be an unskilled worker. The Tribunal has taken the disability of the claimant-appellant as 75%. There is no ground to interfere in the said finding. The

multiplier has rightly been applied as 16. However, no amount has been awarded towards future prospects. In view of the law laid down in the case of **Erudhaya Priya** (*supra*), 40% is added towards future prospects of the claimant-appellant. The Tribunal has awarded an amount of Rs.1 lakh towards loss of amenities of life. The same is also on the lower side inasmuch as the right leg of the claimant-appellant has been amputated below the knee and the loss of amenities of life ought to have been Rs.2 lakhs. The Tribunal has further granted an amount of Rs.10,000/- towards pain and suffering which is also very meagre. A person who has undergone amputation of his leg would not only go through the mental trauma but also the physical pain and suffering. Rs.10,000/- as awarded by the Tribunal is highly inadequate and the same stands enhanced to Rs.2 lakhs. The entire claim towards medical bills has already been awarded, which is maintained. A perusal of the award reveals that no amount has been awarded for the artificial limb. In the present case, since there has been amputation of the leg below the knee, the claimant-appellant in order to carry out his day to day activities would require a prosthetic leg for which, taking a cue from the judgment in the case of **Rohit Kumar** (*supra*) wherein an amount of Rs.7 lakhs was awarded towards cost of the artificial limb in the year 2017, I deem it appropriate to award an amount of Rs.10 lakhs towards costs of the artificial limb and future maintenance of the said artificial limb. The attendant charges awarded by the Tribunal are also very meagre and hence the same are enhanced from Rs.10,000/- to Rs.40,000/-.

In view of the above, the total enhanced compensation to which the claimant-appellant is entitled is re-worked as under :

Sr. No.	Heads	Compensation Awarded
1	Annual income of the deceased	[8000 x 12] =

		Rs.96000
2	Annual loss of income on account of 75% disability	[96000 - 24000] = Rs.72000
3	Future Prospects @ 40%	[72000 + 28800] = Rs.1,00,800
4	Multiplier of 16	[100800 x 16] = Rs.16,12,800
5	Loss of Amenities of life	Rs.2,00,000
6	Pain and sufferings	Rs.2,00,000
7	Cost of artificial limb	Rs.10,00,000
8	Attendant charges	Rs.40000
9	Medical Bills	Rs.31,519
	Total Compensation	Rs.30,84,319
	Amount Awarded by the Tribunal	Rs.13,13,519.72 ps.
	Enhanced amount	Rs.17,70,800

The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 7.5% from the date of the claim petition till the realization of the entire amount.

In view of the above discussion, the present appeal is allowed and the award passed by the Tribunal is modified accordingly. Pending applications, if any, also stand disposed off.

13.01.2023
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO